

## ESTATE OF KATHARINE FLOWER RUNYON, DECEASED

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APRIL 23, 1958.—Committed to the Committee of the Whole House and ordered to be printed

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Mr. POFF, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H. R. 4056]

The Committee on the Judiciary, to whom was referred the bill (H. R. 4056) for the relief of the estate of Katharine Flower Runyon, deceased, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to pay the estate of Katharine Flower Runyon, deceased, \$12,595.34, a sum representing the amount of estate tax paid by that estate which would have been refunded under the Technical Changes Act of 1953 if a claim for that refund had been filed within the time limited for such payment.

#### STATEMENT

On December 23, 1911, Katharine Flower Runyon created an irrevocable trust and retained a life estate in the trust. When Katharine Flower Runyon died on August 17, 1951, the corpus of the trust was included among the assets of the estate. This item was properly includible in the estate of the decedent under the law as it existed at the time of the decedent's death and when the Federal estate-tax return was filed. On January 17, 1949, the United States Supreme Court rendered the decision in the case of *Commissioner v. Church* (335 U. S. 632), which concerned the incidence of the Federal estate tax, and resulted in the necessary inclusion of all of the assets included in the 1911 deed of trust in Mrs. Runyon's gross taxable estate. The Federal estate tax calculated on this basis amounted to \$12,595.34, and Mrs. Runyon's executors paid that amount to the United States on November 17, 1952.

This application of the law was changed by the Technical Changes Act of 1953 which was approved on August 15, 1953. That act provided that the value of property transferred on or before March 4, 1931, would not be included as the part of a gross estate because of a retained life estate if the decedent died after February 10, 1939. Therefore the value of the corpus of the trust created by Katharine Flower Runyon in 1911 should have been excluded from the gross estate of the decedent. The Technical Changes Act was given retroactive effect in that it permitted the representatives of decedents' estates to file claims for refund when estate taxes had been paid on the theory of *Commissioner v. Church*.

No claim was filed in behalf of the estate of Katharine Flower Runyon within the period specified in the law for the refund of the overpayment. During that time the attorney for the estate was engaged in working out adjustments in the values of certain properties and the inclusion of the value of certain stocks in the estate. The Internal Revenue Service had initially recommended an additional tax liability by reason of the adjustment of these valuations. After a hearing before the Appellate staff, no deficiency or overassessment in the estate tax was recommended by the Service.

The fact that the value of the trust corpus was excludable from the estate of the decedent for the purposes of the estate tax under the new law was not noted by the examining officer of the Internal Revenue Service, nor were the representatives of the estate aware of it. As is observed in the report to the committee on the bill by the Treasury Department, the attorney for the estate was not aware of the relief provisions of the Technical Changes Act of 1953 until after the period of limitations for filing a claim for refund had expired. However, this matter involves more than just a failure to learn of the changes, for that attorney questioned a representative of the Internal Revenue Service concerning those very provisions. When the Appellate staff hearing was held in Newark, N. J., on August 3 and September 14, 1955, the attorney for the estate, George G. Tennant, Jr., asked Mr. Paul Miller, the revenue agent, about the amendments, and said that he had recently learned that as a result of the change in the Internal Revenue Code after Mrs. Runyon's death, the assets included in the 1911 trust would not be subject to Federal estate tax if the decedent had died on that day, August 3, 1955. The revenue agent replied to the effect that it was too bad, but there was nothing he could do about that. No mention was made as to a possible claim for refund.

The reason that the inclusion of the trust in the estate is important is that there would have been no Federal estate tax payable if it had not been included. This was because the remaining assets in the estate were valued at far less than the \$60,000 Federal estate tax exemption.

The committee has concluded that this is a proper case for legislative relief. It is clearly established that there would have been no tax payable had the trust corpus not been included among the assets of the estate for tax purposes. The return was filed and the tax paid in accordance with the law applicable as of that time, so that the attorney for the estate had acted with the best information he had to determine the tax liability of the estate. Finally when the changes had been made in the law, the attorney did raise the question in the course of proceedings concerning the valuation and inclusion of assets

in the estate for Federal estate tax purposes, and was given the impression by a representative of the Internal Revenue Service that the law was prospective in effect only. In the light of these circumstances the committee has determined that the estate should be relieved from the strict application of the statute of limitations, and the amount of the overpayment should be paid to the estate as is provided for in H. R. 4056. The Treasury Department opposes preferential treatment by according relief in this instance, but the committee feels that the facts of this particular case justify such relief. Accordingly the committee recommends that the bill be considered favorably.

The committee has been advised that an attorney has rendered services in connection with this claim, and the bill therefore carries the customary attorney's fee proviso.

TREASURY DEPARTMENT,  
*Washington, February 20, 1958.*

Hon. EMANUEL CELLER,

*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your request of February 5, 1957, for the views of this Department on H. R. 4056 (85th Cong., 1st sess.) entitled "A bill for the relief of the estate of Katharine Flower Runyon, deceased."

H. R. 4057, if enacted, would authorize and direct the Secretary of the Treasury to pay to the estate of Katharine Flower Runyon, deceased, formerly of West Orange, N. J., the sum of \$12,595.34. Such sum represents the estate tax paid by such estate which would have been refunded under the Technical Changes Act of 1953 if a claim for refund had been filed within the applicable time limitations by the executors of such estate. This bill is identical with H. R. 12209 (84th Cong.) and is similar to S. 1871 (85th Cong., 1st sess.) except that the latter bill would permit the filing of a claim for credit or refund of overpayment of such estate tax.

The records of the Internal Revenue Service disclose that Katharine Flower Runyon died on August 17, 1951. The Federal estate tax return was received in the Office of the District Director of Internal Revenue, Newark, N. J., on November 17, 1952. There was included in the assets of the estate an item representing the corpus of an irrevocable trust created by the decedent on December 23, 1911, in which the decedent had retained a life estate. This item was properly includible in the estate of the decedent under the law existing at the time of the decedent's death and at the time the Federal estate tax return was filed.

The Technical Changes Act of 1953, which was approved on August 15, 1953, provides that the value of property transferred on or before March 4, 1931, will not be included as part of a gross estate because of a retained life estate if the decedent died after February 10, 1939. Consequently, under the provisions of the Internal Revenue Code of 1939, as amended by the Technical Changes Act of 1953, the value of the corpus of the trust created by the decedent in 1911 was excludable from the gross estate of the decedent. The exclusion from the gross estate of Katharine Flower Runyon of the trust assets

would have resulted in an overassessment of \$12,595.34, the total tax assessed and paid.

The Federal estate tax return of the decedent was examined by the Internal Revenue Service and an additional tax liability was initially recommended by reason of adjustments in the values of certain properties and the inclusion of the value of certain stocks transferred by the decedent prior to her death. The representatives of the estate did not agree to the recommended deficiency in tax and, as the result of a hearing before the appellate staff, no deficiency or overassessment in the estate tax was recommended by the Service.

Neither the examining officer in his report covering an examination of the estate nor the representatives of the estate noted that the value of the trust corpus was excludable from the gross income of the decedent under the change in law as applied to the particular provisions of the trust. Information with the file discloses that the attorney for the estate was not aware of the relief provisions of the Technical Changes Act of 1953 until after the period of limitations for filing a claim for refund had expired.

Since a claim for refund was not filed within 3 years from the date of payment of the tax, the overassessment is barred by section 910 of the Internal Revenue Code of 1939. It appears that the representatives of the decedent's estate had a period of more than 2 years following the enactment of the Technical Changes Act of 1953, in which to file a claim for refund.

It is to be noted that Congress has determined it to be a sound policy to include in the revenue system a statute of limitations, by the operation of which, after a period of time, it becomes impossible for the Government to collect additional taxes or for the taxpayer to obtain refunds of tax overpayments. Except in the case of special circumstances, which do not appear here, it would appear that granting special relief in the case of taxes erroneously collected, the refund of which is not claimed in the time and manner prescribed by law, constitutes a discrimination against other taxpayers similarly situated.

In view of the foregoing, the Treasury Department is not in favor of the enactment of H. R. 4056.

The Director, Bureau of the Budget, has advised the Treasury Department that there is no objection to the presentation of this report.

Sincerely yours,

DAN THROOP SMITH,  
*Deputy to the Secretary.*

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